IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.8722 OF 2003

Shri Dinkar Dnyanu Bote, .. Petitioner.

Vs

Smt Rakhamabai Dagadu Man & ors .. Respondents.

Mr Dilip Bodake, for the petitioner.
Ms Deepa S Matwankar i/b Mr D.A.Patil, for the respondents.

CORAM : D.B.BHOSALE,J.
DATE : 09.10.2006

PC:

1. Heard Mr Bodake, learned counsel for the petitioner and Ms Matwankar, learned counsel for the respondents.

2. By this writ petition, the petitioner has impugned the order dated 2.7.2003, by which his application seeking condonation of delay in filing the appeal against the judgment and decree dated 1.4.2002 passed in Regular Civil Suit No.2 of 1999, has been rejected. The delay caused in filing the appeal was of one year and 26 days. The suit was filed for partition and separate possession and it was decreed on 1.4.2002. The learned counsel appearing for the parties have fairly stated that I need not record detailed reasons for allowing this writ petition and they have agreed for the following order.

(a) The petitioner shall deposit at the rate of Rs.500/- per month from the date of filing of this petition till the end of October, 2006, i.e. from Agusut 2003 to October, 2006 in the trial court by way of maintenance to be paid to the plaintiff-respondent no.1 - Smt Rakhamabai Dagadu Mane. within six weeks from today and shall keep depositing Rs.500/- per month from November, 2006 till the disposal of the appeal.

(b) On the petitioner depositing "the arrears of maintenance", as aforestated, the delay in filing the appeal shall stand condoned. However, if the petitioner fails to deposit the amount, as aforestated, the impugned order shall stand affirmed. Plaintiff-respondent no.1 shall have a libery to withdraw the arrears, if deposited, without furnishing security and shall also have a liberty to withdraw the amount that will be deposited from November, 2006 at the rate of Rs.500/- p.m by the petitioner.

(c) The appeal court to decide the appeal as expeditiously as possible and preferably within a period of six months from the date of depositing the arrears, as aforestated.

(d) With these observations, the writ petition stands disposed of.

(D.B.BHOSALE,J.)